



CLOSED CASE SUMMARY

ISSUED DATE: SEPTEMBER 17, 2023

FROM: DIRECTOR GINO BETTS 
OFFICE OF POLICE ACCOUNTABILITY

CASE NUMBER: 2023OPA-0128

Allegations of Misconduct & Director's Findings

Named Employee #1

Allegation(s):		Director's Findings
# 1	5.001 – Standards and Duties. 11. Employees Will Be Truthful and Complete in All Communication	Not Sustained - Unfounded (Expedited)
# 2	5.001 – Standards and Duties. 14. Retaliation is prohibited	Not Sustained - Unfounded (Expedited)

This Closed Case Summary (CCS) represents the opinion of the OPA Director regarding the misconduct alleged and therefore sections are written in the first person.

EXECUTIVE SUMMARY:

Named Employee #1 (NE#1), a civilian administrative staff analyst, processed public disclosure requests (PDR). The Complainant was a PDR requestor/client. The Complainant alleged NE#1 avoided questions and provided “false and conflicting information” while processing the PDR slower than it should have taken. The Complainant further alleged that NE#1 provided insufficient information to the Complainant in retaliation.

ADMINISTRATIVE NOTE:

This case was approved for Expedited Investigation. That means OPA, with the Office of Inspector General's (OIG) agreement, believed it could issue recommended findings based solely on its intake investigation without interviewing the named employee. As such, OPA did not interview the named employee in this case.

On June 14, 2023, OIG certified OPA's investigation as thorough, timely, and objective.

SUMMARY OF INVESTIGATION:

OPA received the Complainant's emailed OPA complaint and opened an intake investigation. During its investigation, OPA reviewed the OPA complaint, email correspondence, and city policy for processing public disclosure requests.

The Complainant emailed OPA on March 21, 2023. The Complainant requested records for “basic staff profiles” for officers who entered his property on December 2, 2022. The Complainant wrote that he waited nearly four months and had not received those records, attributing the delay to “being obstructed as a retaliatory and punitive measure due to [his] complaints about SPD's conduct on [his] property on December 2, 2022.” The Complainant wrote, “The SPD employee assigned to my public records request, [NE#1], is avoiding questions and providing me with false and conflicting information regarding my request so as to obstruct the processing of my request.”



OPA reviewed email exchanges between the Complainant and NE#1, summarized below:

- An email exchange occurred on December 12, 2022. NE#1 confirmed receipt of the Complainant's PDR, said she needed additional time to respond, and said she would provide the records on January 27, 2023. The Complainant asked why the PDR would take nearly two months to complete. NE#1 responded that the Public Disclosure Unit (PDU) operates on a first-come, first-served basis and had over 2,600 open requests at the time. NE#1 continued that the Complainant's PDR was large, said she requested records from multiple units, and said the "first installment of several" would be delivered on January 27, 2023. The Complainant asked for a timeframe for records specific to the December 2 incident. NE#1 said she requested the 9-1-1 recording and body-worn video (BWV), which could take at least four weeks and six weeks, respectively. NE#1 said the first installment would contain records regarding the December 2 incident. The Complainant said Witness Officer #1 (WO#1)—a sergeant—reviewed the 9-1-1 recording and BWV, so NE#1 should be able to provide these records to the Complainant immediately.
- On January 26, 2023, the Complainant confirmed receipt of the first installment of his PDR that contained the 9-1-1 recording and radio information but not BWV. The Complainant said he did not get any information regarding what the next installment, due March 24, 2023, would contain or how many installments there would be. The Complainant wrote, "I find it really fucking irritating that you were responding to me within minutes on December 12, 2022, to tell me that my records would not be available for months, but right after I told you that [WO#1] had already located and accessed the body cam video I requested you immediately went radio silent. I do not appreciate this punitive and retaliatory obstruction by Seattle Police while I attempt to figure out why officers arrived on my property and threatened to break into my home unprompted on December 6, 2022."¹
- On January 27, 2023, NE#1 replied, reiterating that the Public Disclosure Unit is managing heavy caseloads. NE#1 said she had over 215 requests and evenly allocated time for each PDR. NE#1 confirmed the second installment date as March 24, 2023.
- On January 30, 2023, the Complainant replied, saying NE#1 "managed to avoid providing any useful information whatsoever regarding any of the topics [he] raised in [his] previous email." The Complainant inquired about (1) what records the second installment would contain; (2) how many installments his PDR was broken up into; (3) the contents of each installment; (4) estimated delivery dates of the remaining installments; (5) why he did not receive BWV when NE#1 said BWV disclosure would take six weeks, and seven weeks already passed; (6) why BWV disclosure would take at least four months when WO#1 accessed it within minutes; (7) whether NE#1 contacted WO#1 for the BWV; and (8) why disclosure of SPD policies is taking at least four months. The Complainant wrote, "These ridiculous delays are retaliatory and punitive in nature," and threatened an OPA complaint.
- On January 31, 2023, NE#1 replied, saying she did not know the number of installments nor the contents of each installment. NE#1 said she was collecting records from multiple units and must review each record "line by line (or minute by minute for videos) for any exempt material." NE#1 said, "I aim to produce installments every 6-8 [weeks] based on my current workload." NE#1 said each installment is based on the records collected since the prior installment. NE#1 confirmed that the second installment would contain five BWVs.

¹ Prior emails from the Complainant indicated that SPD entered the Complainant's property on December 2, not December 6.



- On March 17, 2023, NE#1 informed the Complainant that the second installment of his PDR was complete. NE#1 said it contained BWV. NE#1 said the third installment would be provided on or about May 12, 2023.
- On March 21, 2023, the Complainant confirmed receipt of the second installment. The Complainant questioned NE#1's claim that she did not know the contents of each installment when NE#1 told the Complainant that the second installment would contain BWV. The Complainant repeated questions (2) through (4) from his January 30 email. The Complainant also asked why he still did not receive the officers' "basic staff profiles" after nearly four months had passed. The Complainant reiterated that delays are "retaliatory" and "punitive in nature."
- On March 21, 2023, NE#1 replied that since January 31, 2023, she conducted additional research to determine that the second installment would contain BWV.

OPA requested an interview with the Complainant. The Complainant directed OPA to review the email exchanges summarized above instead of participating in an interview.

ANALYSIS AND CONCLUSIONS:

Named Employee #1 - Allegation #1

5.001 – Standards and Duties. 11. Employees Will Be Truthful and Complete in All Communication

The Complainant alleged that NE#1 was untruthful.

SPD Policy 5.001-POL-11 requires Department employees to be truthful and complete in all communications.

Here, the Complainant characterized an element of NE#1's response as "false and conflicting." The Complainant suggested NE#1 was untruthful because, in her email dated January 31, 2023, NE#1 said that she did not know the contents of each installment. However, in that same email, NE#1 told the Complainant that the second installment would contain five BWVs. In response, NE#1 said that since January 31, 2023, she conducted additional research to determine that the second installment would contain BWV. As an initial matter, the information provided by NE#1 is not inconsistent — NE#1 providing the Complainant with the anticipated contents of the *next* installment is not inconsistent with explaining she did not know the contents of *each* installment. To the extent these responses could be viewed as slightly inconsistent, NE#1 provided a reasonable explanation: NE#1 went out of her way to conduct "additional research" to provide the Complainant with responsive information. Moreover, OPA found no evidence of untruthfulness upon reviewing the entirety of the email exchange between NE#1 and the Complainant.

Accordingly, OPA recommends that this allegation be Not Sustained – Unfounded (Expedited).

Recommended Finding: **Not Sustained - Unfounded (Expedited)**

Named Employee #1 - Allegation #2

5.001 – Standards and Duties. 14. Retaliation is prohibited

The Complainant alleged that NE#1 retaliated against him for filing a complaint against SPD officers.



SPD policy precludes its employees from engaging in retaliation. SPD Policy 5.001-POL-14. SPD employees are expressly prohibited from retaliating against a person who engages in activities, including, but not limited to, “oppos[ing] any practice that is reasonably believed to be unlawful or in violation of Department policy” or “who otherwise engages in lawful behavior.” *Id.* Retaliatory acts are defined broadly under SPD’s policy and include “discouragement, intimidation, coercion, or adverse action against any person.” *Id.*

Here, the Complainant believed NE#1 retaliated against him by fulfilling the PDR slower than it should have been processed and providing him with insufficient information. The evidence shows NE#1 supplied the first and second installments before the dates on which they were due. Moreover, NE#1 informed the Complainant early in the PDR process that the Public Disclosure Unit was experiencing heavy caseloads, with over 2,600 open requests. NE#1 also informed the Complainant that she had over 215 requests and must review each record “line by line” or “minute by minute.” Much of the delay also appears out of NE#1’s control. NE#1 indicated she requested records from multiple units at SPD—human resources, the training unit, the video unit, and the photo unit—and said she had to wait until they responded. Therefore, responding to the Complainant’s PDR in installments was reasonable. It was also consistent with city policy. *See* CPRA-01-2016 Interim Citywide Policy on Processing Public Disclosure Requests section 5.5.10 (“the City may elect to provide records on an installment basis to a request, whether individual or grouped”). No evidence suggests NE#1 slowed down the PDR process. While NE#1 did not answer all questions posed by the Complainant throughout their email exchange, NE#1 addressed most of the Complainant’s inquiries, which went beyond the minimum requirements of the PRA. NE#1’s frustrations with the public disclosure process do not, on their own, indicate individual misconduct by NE#1.

Accordingly, OPA recommends this allegation be Not Sustained – Unfounded (Expedited).

Recommended Finding: **Not Sustained - Unfounded (Expedited)**